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AB-1283 Pupil health: emergency stock albuterol inhalers. (2023-2024)

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Assembly Bill No. 1283

CHAPTER 574

An act to add Section 49414.7 to the Education Code, relating to pupil health.

[Approved by Governor October 08, 2023. Filed with Secretary of State October 08, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1283, Chen. Pupil health: emergency stock albuterol inhalers.

Existing law requires the governing board of any school district to give diligent care to the health and physical development of pupils and authorizes the governing board of a school district to employ properly certified persons for the work. Existing law requires school districts, county offices of education, and charter schools to provide emergency epinephrine auto-injectors to school nurses or trained personnel who have volunteered, and authorizes school nurses or trained personnel to use emergency epinephrine auto-injectors to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an anaphylactic reaction, as provided.

This bill would authorize a school district, county office of education, or charter school to provide emergency stock albuterol inhalers, including, if necessary, single-use disposable holding chambers, as specified, to school nurses or trained personnel who have volunteered, and would authorize school nurses or trained personnel to use an emergency stock albuterol inhaler to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from respiratory distress, as provided. The bill would prohibit a local educational agency that elects to utilize stock albuterol inhalers for emergency aid from being liable for civil damages for this administration, except as provided, and would require those local educational agencies to provide defense and indemnity to an employee who volunteers under these provisions for any and all civil liability, as provided. The bill would require the Superintendent of Public Instruction to establish, and post on the State Department of Education's internet website, minimum standards of training for the administration of stock albuterol inhalers, as provided, and every 5 years or sooner, as provided, review those standards. The bill would define the terms, including, among others, "stock albuterol inhaler" and "respiratory distress" for purposes of these provisions.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 49414.7 is added to the Education Code, to read:

49414.7. (a) School districts, county offices of education, and charter schools may provide emergency stock albuterol inhalers, including, if necessary, single-use disposable holding chambers, to school nurses or trained personnel who have volunteered pursuant to subdivision (d), and school nurses or trained personnel may use an emergency stock albuterol inhaler to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from respiratory distress.

(b) For purposes of this section, the following definitions apply:

- (1) "Albuterol" means a bronchodilator used to open the airways by relaxing the muscles around the bronchial tubes.
- (2) "Authorizing physician and surgeon" may include, but is not limited to, a physician and surgeon employed by, or contracting with, a local educational agency, a medical director of the local health department, or a local emergency medical services director.
- (3) "Inhaler" means a device used for the delivery of prescribed asthma medication that is inhaled.
- (4) "Local educational agency" means a school district, county office of education, or charter school.
- (5) "Metered-dose inhaler (MDI)" means a pressurized sprayer that delivers a measured amount of a medication.
- (6) "Qualified supervisor of health" may include, but is not limited to, a school nurse.
- (7) "Respiratory distress" means the sudden appearance of signs and symptoms of difficulty breathing. Signs and symptoms of respiratory distress may include one or more of the following:
 - (A) Complaints of a tight chest or chest pain.
 - (B) Wheezing or noisy breathing.
 - (C) Persistent coughing.
 - (D) Difficulty breathing.
 - (E) Appears to be in distress.
 - (F) Lips or fingernails turning blue.
 - (G) Shortness of breath.
- (8) "Stock albuterol inhaler" means albuterol medication in the form of a metered-dose inhaler (MDI) that is ordered by a health care provider and is not prescribed for a specific person and also includes, if necessary, a single-use disposable holding chamber.
- (9) "Volunteer" or "trained personnel" means an employee who has volunteered to administer stock albuterol inhalers to a person if the person is suffering, or reasonably believed to be suffering, from respiratory distress, has been designated by a school, and has received training pursuant to subdivision (d).

(c) Each private elementary and secondary school in the state may voluntarily determine whether or not to make emergency stock albuterol inhalers and trained personnel available at its school. In making this determination, a school shall evaluate the emergency medical response time to the school and determine whether initiating emergency medical services is an acceptable alternative to stock albuterol inhalers and trained personnel. A private elementary or secondary school choosing to exercise the authority provided under this subdivision shall not receive state funds specifically for purposes of this subdivision.

(d) (1) Each public and private elementary and secondary school in the state may designate one or more volunteers to receive initial and annual refresher training, based on the standards developed pursuant to subdivision (e), regarding the storage and emergency use of a stock albuterol inhaler from the school nurse or other qualified person designated by an authorizing physician and surgeon.

(2) Schools are encouraged and recommended to have a minimum of two trained school employees.

(e) (1) The Superintendent shall establish, and post on the department's internet website, minimum standards of training for the administration of stock albuterol inhalers that satisfies the requirements of paragraph (2). Every five years, or sooner as deemed necessary by the Superintendent, the Superintendent shall review minimum standards of training for the administration of stock albuterol inhalers that satisfy the requirements of paragraph (2). For purposes of this subdivision, the Superintendent shall consult with organizations and providers with expertise in administering stock albuterol inhalers and administering medication in a school environment, including, but not limited to, the State Department of Public Health, the Emergency Medical Services Authority, the American Academy of Allergy, Asthma and Immunology, the California School Nurses Organization, the California Medical Association, the American Academy of Pediatrics, the California Society of Allergy, Asthma and Immunology, the American College of Allergy, Asthma and Immunology, and others.

(2) Training established pursuant to this subdivision shall include all of the following:

(A) Techniques for recognizing symptoms of respiratory distress.

(B) Standards and procedures for the storage, restocking, and emergency use of stock albuterol inhalers.

(C) Emergency followup procedures, including calling the emergency 911 telephone number and contacting, if possible, the pupil's parent or guardian and physician.

(D) Recommendations on the necessity of instruction and certification in cardiopulmonary resuscitation.

(E) Written materials covering the information required under this subdivision.

(3) Training established pursuant to this subdivision shall be consistent with the most recent guidelines for medication administration issued by the department.

(4) Training established pursuant to this subdivision shall be provided to a volunteer during the volunteer's regular working hours and at no cost to the volunteer.

(5) A school shall retain for reference the written materials prepared under subparagraph (E) of paragraph (2).

(f) Any local educational agency electing to utilize stock albuterol inhalers for emergency aid shall distribute a notice at least once per school year to all staff that contains the following information:

(1) A description of the volunteer request stating that the request is for volunteers to be trained to administer a stock albuterol inhaler to a person if the person is suffering, or reasonably believed to be suffering, from respiratory distress, as specified in subdivision (b).

(2) A description of the training that the volunteer will receive pursuant to subdivision (d).

(g) (1) A qualified supervisor of health at a local educational agency electing to utilize stock albuterol inhalers for emergency aid shall obtain from an authorizing physician and surgeon a prescription for each school for stock albuterol inhalers. A qualified supervisor of health at a local educational agency shall be responsible for stocking the stock albuterol inhalers and restocking it if it is used.

(2) If a local educational agency does not have a qualified supervisor of health, an administrator at the local educational agency shall carry out the duties specified in paragraph (1).

(3) A prescription pursuant to this subdivision may be filled by local or mail order pharmacies or stock albuterol inhaler manufacturers.

(4) An authorizing physician and surgeon shall not be subject to professional review, be liable in a civil action, or be subject to criminal prosecution for the issuance of a prescription or order pursuant to this section, unless the physician and surgeon's issuance of the prescription or order constitutes gross negligence or willful or malicious conduct.

(h) A school nurse or, if the school does not have a school nurse or the school nurse is not onsite or available, a volunteer may administer a stock albuterol inhaler to a person exhibiting potentially life-threatening symptoms of respiratory distress at school or a school activity when a physician is not immediately available. If the stock albuterol inhaler is used, it shall be restocked as soon as reasonably possible, but no later than two weeks after it is used. Stock albuterol inhalers shall be restocked before their expiration date.

(i) A volunteer shall initiate emergency medical services or other appropriate medical followup in accordance with the training materials retained pursuant to paragraph (5) of subdivision (e).

(j) (1) A local educational agency electing to utilize stock albuterol inhalers for emergency aid shall not be liable for any civil damages resulting from any act or omission, other than an act or omission constituting gross negligence or willful and wanton misconduct, in the emergency administration of an albuterol inhaler by any of its school nurses or trained volunteers who have volunteered pursuant to subdivision (d).

(2) An employee who volunteers under this section shall be provided defense and indemnification by the local educational agency for any and all civil liability, in accordance with, but not limited to, that provided in Division 3.6 (commencing with Section 810) of Title 1 of the Government Code. This information shall be reduced to writing, provided to the volunteer, and retained in the volunteer's personnel file.

(k) A state agency, the department, or a public school may accept gifts, grants, and donations from any source for the support of the public school carrying out the provisions of this section, including, but not limited to, the acceptance of stock albuterol inhalers from a manufacturer or wholesaler.